

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA

Plaintiff,

v.

PHARMACIA LLC (f/k/a MONSANTO CO.),
SOLUTIA INC.,
CERRO FLOW PRODUCTS LLC
(f/k/a CERRO COPPER PRODUCTS INC.),
and EXXONMOBIL OIL CORPORATION,

Defendants.

Civil Action No. 99-cv-063

**CONSENT DECREE MODIFICATION
AND REQUEST FOR APPROVAL**

Plaintiff United States of America, on behalf of the United States Environmental Protection Agency (“EPA”), and Settling Defendants Pharmacia LLC, Solutia Inc., Cerro Flow Products LLC, and ExxonMobil Oil Corporation (collectively “Settling Defendants”), agree to modify a Consent Decree entered in this action so as to promote the continuing remediation of the Superfund Alternative Site known as Sauget Area 1 in the Villages of Sauget and Cahokia in St. Clair County, Illinois. This is the first modification of this Consent Decree.

BACKGROUND

On January 28, 1999, Plaintiff United States of America, on behalf of the EPA, filed a complaint in this action against Settling Defendants and other potentially responsible parties, asserting claims under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9607(a). Through the Complaint, the United States

sought to recover all of the costs it incurred in responding to the release or threatened release of hazardous substances at Sauget Area 1 and a declaratory judgment on liability for response costs.

On April 19, 2004, the Court entered a consent decree between the United States and defendant Paul Sauget, in which the defendant agreed to a stipulated judgment of \$9.2 million for all past and future liability at Sauget Area 1 and payment of a portion of this judgment through recovery of insurance proceeds. Dkt. 655.

On December 15, 2009, the Court entered a consent decree between the United States and Settling Defendants, among others, wherein the Defendants agreed, *inter alia*, to reimburse certain past response costs related to the Sauget Area 1 Site. Dkt. 772 ("2009 CD"). As part of that 2009 Consent Decree, the United States and Settling Defendants agreed to establish special accounts within the EPA Hazardous Substance Superfund for payment of future response costs at Sauget Area 1 and the adjoining Superfund Alternative Site, Sauget Area 2, referred to as the Sauget Area 1 and 2 Remediation Accounts, respectively. 2009 CD, ¶9.b.

The parties to the 2009 CD agreed that the first \$50,492 in insurance proceeds paid by the Estate of Paul Sauget would be deposited in the Sauget Area 1 Remediation Account, and the next \$3,150,000 would be deposited in equal amounts into the Sauget Area 1 Special Account (for reimbursement of past response costs) and the Sauget Area 2 Remediation Account.

Accounting errors have occurred in the intervening 11 years resulting in a loss of recovery of response costs to the EPA Hazardous Substance Superfund. To correct these errors, the United States and Settling Defendants have reached a compromise relating to the recovery of insurance proceeds received through the 2004 Consent Decree with Paul Sauget. This compromise and the resulting transfer of funds between special accounts includes interest earned on these funds.

The Parties request that the Court enter this Consent Decree Modification and Request for Approval (“Consent Decree Modification”) finding that this Consent Decree Modification has been negotiated at arms-length and in good faith and that this Consent Decree Modification is fair, reasonable, and in the public interest.

The Parties agree, without admission of any issue of fact or law, that the 2009 Consent Decree should be amended as follows:

AMENDED CONSENT DECREE PROVISIONS

1. Except as specifically provided in this Consent Decree Modification, all provisions of the 2009 CD shall remain in full force and effect. No provision of the original Consent Decree is modified, superseded, or altered in any way except as specifically provided in this Consent Decree Modification.

2. Paragraph 9.c within Section VI of the 2009 CD shall be modified to increase the cut-off for sharing of insurance proceeds between the Sauget Area One Special Account and the Sauget Area Two Remediation Account by \$400,000, so that the provision reads as follows:

As for Insurance Proceeds that have been or will be paid to the United States pursuant to the Consent Decree entered into with the Estate of Paul Sauget in this civil action, the first \$50,492 shall be deposited in the Sauget Area 1 Remediation Account, the next \$3,550,000 shall be deposited in equal amounts in the Sauget Area One Special Account and the Sauget Area Two Remediation Account, and all additional Insurance Proceeds shall be deposited in equal amounts into the Remediation Accounts.

3. Within 60 days after approval of this Consent Decree Modification by the Court, EPA Region 5 shall make the following transfers within special accounts that it has established within the EPA Hazardous Substance Superfund:

- a. \$495,403.32 will be transferred from the Sauget Area 1 Remediation Account to the Sauget Area 1 Special Account;

- b. \$39,060.52 will be transferred from the Sauget Area 2 Remediation Account to the Sauget Area 1 Special Account; and
 - c. \$28,373.10 will be transferred from the Sauget Area 1 Remediation Account to the Sauget Area 2 Remediation Account.
4. The undersigned representatives of Settling Defendants, and of the Acting Assistant Attorney General for the Environment and Natural Resources Division of the Department of Justice or her designee certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree Modification and to execute and legally bind such Party to this document.
5. This Consent Decree Modification and Request for Approval may be executed in counterparts.

THE UNDERSIGNED PARTY enters into this Consent Decree Modification in the matter of United States v. Pharmacia LLC, et al., Civil Action No. 99-063 (S.D. Ill.)

FOR THE UNITED STATES OF AMERICA:

TODD KIM
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice




MICHAEL J. ZOELLER
Environmental Enforcement Section
Environment and Natural Resources Division
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STEVEN D. WEINHOEFT
United States Attorney
Southern District of Illinois

A handwritten signature in cursive script, reading "Nathan D. Stump", written in dark ink. The signature is positioned above a horizontal line.

NATHAN D. STUMP
Assistant United States Attorney
Southern District of Illinois
9 Executive Dr.
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THE UNDERSIGNED PARTY enters into this Consent Decree Modification in the matter of United States v. Pharmacia LLC, et al., Civil Action No. 99-063 (S.D. Ill.)

 Digitally signed by
Ballotti, Doug
Date: 2021.07.27
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DOUGLAS BALLOTTI
Director, Superfund and Emergency
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THOMAS
MARTIN

 Digitally signed by THOMAS MARTIN
Date: 2021.07.29 16:25:26 -05'00'

THOMAS J. MARTIN
Associate Regional Counsel
U.S. Environmental Protection Agency
Region 5
77 West Jackson Blvd.
Chicago, IL 60604

THE UNDERSIGNED PARTY enters into this Consent Decree Modification in the matter of United States v. Pharmacia LLC, et al., Civil Action No. 99-063 (S.D. Ill.)

FOR PHARMACIA LLC

By: Solutia Inc, its Attorney-in-Fact



June 15, 2021

Date

Edwin Williamson
Vice President
Eastman Chemical Company
200 S. Wilcox Drive
Kingsport, TN 37662

Agent Authorized to Accept Service
on Behalf of Above-signed Party:

Name: Steve Addlestone
Title: Senior HSES Counsel
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FOR SOLUTIA INC.

June 15, 2021

Date



Edwin Williamson
Vice President
Eastman Chemical Company
200 S. Wilcox Drive
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Agent Authorized to Accept Service
on Behalf of Above-signed Party:

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THE UNDERSIGNED PARTY enters into this Consent Decree Modification in the matter of United States v. Pharmacia LLC, et al., Civil Action No. 99-063 (S.D. Ill.)

FOR CERRO FLOW PRODUCTS LLC

JUNE 10, 2021
Date


Name (print): GREGORY A HERIOT
Title: VP/Director
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Agent Authorized to Accept Service
on Behalf of Above-signed Party:

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THE UNDERSIGNED PARTY enters into this Consent Decree Modification in the matter of
United States v. Pharmacia LLC, et al., Civil Action No. 99-063 (S.D. Ill.)

FOR EXXONMOBIL OIL CORPORATION

6-22-2021

Date

Agent Authorized to Accept Service
on Behalf of Above-signed Party:



AGENT ATTORNEY IN FIRM
FOR EXXONMOBIL OIL CORPORATION

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CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2021, I electronically filed the CONSENT DECREE MODIFICATION AND REQUEST FOR APPROVAL with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record, including the following:

Jason A. Flower
Richard F. Ricci
Craig Zimmerman

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s/ Michael J. Zoeller
MICHAEL J. ZOELLER
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